

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 12 2006

JOSE ANTONIO MENDEZ,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-76396

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

Agency No. A95-598-881

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 5, 2006 ^{**}

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Jose Antonio Mendez, a native and citizen of Peru, petitions for review of an order of the Board of Immigration Appeals adopting an immigration judge's ("IJ") decision denying his application for withholding of removal. We have

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 8 U.S.C. § 1252. Reviewing for substantial evidence, *Nahrvani v. Gonzales*, 399 F.3d 1148, 1151 (9th Cir. 2005), we deny the petition for review.

Substantial evidence supports the IJ's determination that Mendez does not qualify for withholding of removal because Mendez failed to establish that it is "more likely than not" that he would be persecuted upon return to Peru. *See Lata v. INS*, 204 F.3d 1241, 1244 (9th Cir. 2000). Neither Mendez nor his family was ever harmed by the Shining Path guerrillas, and his brother, the primary target of the guerrillas, remained unharmed in Peru for several years after being threatened. *See Nahrvani*, 399 F.3d at 1153-54 (record did not compel a finding of eligibility for withholding of removal where petitioner was never physically harmed or detained, and suffered only ambiguous threats and de minimis property damage); *Lata*, 204 F.3d at 1244-45 (9th Cir. 2000) (record did not compel a finding of eligibility for withholding of removal where petitioner remained in Fiji for approximately two years after isolated incident of harm and where her sister continued to reside there without difficulty).

PETITION FOR REVIEW DENIED.